



1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF BRONX : CRIMINAL TERM : PART T-13
3 -----x

4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

6 ANTHONY MANGANIELLO,

7 Defendant(s).
8 -----x

9 June 30th, 2004

10 B E F O R E:

11 HONORABLE MARTIN MARCUS, Justice & jury.
12 (Same appearances as previously noted.)
13 -----

14 THE CLERK: Case on trial People verses
15 Anthony Manganiello. Appearances.

16 MR. RICHMAN: Murray Richman for Mr.
17 Anthony Manganiello.

18 MS. HILL: Renee Hill of counsel to
19 Murray Richman.

20 MS. SCACCIA: Christine Scaccia for the
21 office of the District Attorney.

22 MS. MCELWREATH: Suzanne McElwreath for
23 the office of the District Attorney.

24 THE COURT: Miss Scaccia, your witnesses
25 are?

f/lr PROCEEDINGS

506

1 of me in this and in other cases to know that I do
2 not lean one way or the other. If you believe to
3 the contrary, so be it. I can live with that. I
4 have changed my mind twice in this case. Once
5 because the People presented me with controlling
6 law that clearly indicated that I should change my
7 mind and once now based on a change of circumstance
8 that altered the basis for my ruling.

9 Everyone seems to agree that Mr. Damon
10 is not telling the truth. If Mr. Damon is not
11 telling the truth, evidence that was not relevant
12 becomes relevant. It's part of this circumstantial
13 case. What the jury makes of it is for the jury to
14 decide.

15 MR. RICHMAN: Your Honor --

16 THE COURT: Not for me. If you have been
17 -- if you have been lead not to prepare for these
18 witnesses adequately, I am telling you -- based on
19 my ruling -- I understand that and I've told you
20 you can have time to prepare. Why that would lead
21 you to accuse me of a lack of impartiality I have
22 no idea.

23 MR. RICHMAN: You know, I'm not accusing
24 you per se --

25 THE COURT: You just said you were.

f/lr PROCEEDINGS

507

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. RICHMAN: Hear me.

THE COURT: You didn't want me to misunderstand.

MR. RICHMAN: I don't want you to misunderstand.

THE COURT: You just said you didn't want me to infer it, you weren't -- you weren't implying it, you were saying it.

MR. RICHMAN: I don't think you intend to but it ended up that way.

THE COURT: Well, I thank you for your psychological review.

MR. RICHMAN: I have a degree in it, Judge. Forgive me.

THE COURT: Be that as it may, be that as it may, that's my ruling.

MR. RICHMAN: Okay.

THE COURT: I invite you again if you want an opportunity to have a time to prepare for their testimony to take --

MR. RICHMAN: Your Honor, will you permit me to go into the fact of how the prosecution and their minions attempted to secure the information that was untrue -- and should have known it was untrue -- in order to effectuate an illegal end, to

f/lr PROCEEDINGS

508

1 wit, the securing of a conviction as against my
2 client by putting a gun in his hand when they know
3 that not to be the truth or should have known it
4 not to be the truth.

5 THE COURT: I don't understand what
6 you're saying.

7 MR. RICHMAN: Well, in view of Mr.
8 Damon's no longer a prosecution witness based upon
9 the falsity of the statement, I would like the
10 opportunity to potentially bring it to the Court's
11 or at least the jury's attention of just that, that
12 he was such a person and he -- the prosecution
13 through auspices in this particular case had
14 proffered him initially as a witness only later to
15 find out that he withdraw it knowing it to be
16 untrue.

17 MS. SCACCIA: If counsel can remember
18 back to this morning when we had this discussion at
19 the bench, I said I don't believe his recantation
20 and I don't know whether he was, in fact, lying
21 then or is lying now, but I know I have an
22 obligation and I'm not going to put a liar on the
23 stand because either way you cut it he's lying.

24 So I don't know where this whole
25 surprise and he didn't know that Booth and

f/lr PROCEEDINGS

509

1 Tartarone could potentially be witnesses because in
2 the Court's ruling you said you are going to
3 contradict Mr. Damon's testimony, he said
4 absolutely. Well, if you contradict or controvert
5 Mr. Damon's testimony about the weapon, I'm going
6 to allow her to call these witnesses.

7
8 So the whole I didn't prepare for them,
9 especially the one guy who he formerly represented.
10 I really find hard to believe. But if he wants to
11 keep saying about how I should of known, you know
12 what, a man who is in custody has no idea what sort
13 of ballistic evidence was recovered at this murder
14 scene, but yet they give information to the cops
15 and to the People that they sold this defendant,
16 the White Italian security guard from Parkchester,
17 a .22 caliber semiautomatic and we just not only
18 happen to have two .22 calibers in the man's brain
19 but we have four .22 caliber shell cases.

20 Now, I don't know what Mr. Damon's
21 issues are and I don't know if he was lying then or
22 he's lying now, but he -- I know he's a liar and
23 that's why he's not on the stand. For counsel to
24 just be able to sit here and say, oh, my minions.
25 You see all my minions, don't you. The 43rd
Precinct's on vacation and I'm here with no folder

f/lr PROCEEDINGS

510

1 and on trial but my minions made all this happen.
2 That's really just not a fair statement. And
3 counsel does it over and over all day long about
4 all of the stuff I'm trying to pull on his client.
5 Meanwhile, you give rulings and he just disregards
6 them in front of the jury. Not when the jury's not
7 here, only when the jury's here because it's part
8 of his show and it's really not fair.

9
10 MR. RICHMAN: How come you don't cut her
11 off? Me you cut off like that. Cut her off will
12 you, please.

13 MS. SCACCIA: Why don't we put on the
14 record you're grinning the whole time you make
15 these stupid references.

16 MR. RICHMAN: Stop it. Get a life.

17 THE COURT: Mr. Richman, I wish sometimes
18 you would pay more attention to the seriousness of
19 the formality of the courtroom than you do.

20 I don't quite understand where your
21 offer of proof is, what witnesses you would call to
22 this affect, but what Mr. Damon would of testified
23 to and how it would have been impeached has no
24 bearing on the credibility of any of the witnesses
25 who have testified.

MR. RICHMAN: Sir, it is my true belief